

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION

)
) MDL No. 1456
)

) Civil Action No. 01-CV-12257 PBS
)

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

) Judge Patti B. Saris
)

) Chief Magistrate Judge Marianne B. Bowler

**[PROPOSED] AGREED ORDER CONCERNING
PLAINTIFFS' MOTION TO UNSEAL ALL CONFIDENTIAL OR
HIGHLY CONFIDENTIAL DESIGNATED DOCUMENTS
USED IN SUMMARY JUDGMENT PROCEEDINGS AS TO BMS**

WHEREAS, in connection with the cross-motions for summary judgment now pending before the Court, plaintiffs and defendants Bristol-Myers Squibb Company, Oncology Therapeutics Network Corp. and Apothecon Inc. (together, "BMS") moved for leave to file under seal several documents, including memoranda of law, declarations, exhibits and other materials; and

WHEREAS, on May 19, 2006, plaintiffs moved to unseal all documents filed in connection with the summary judgment motions; and

WHEREAS, in a "Procedural Order" dated May 25, 2006, the Court denied the initial motions to seal as to the summary judgment memoranda of law (except as to private medical information of the named plaintiffs), but provisionally allowed the motions to seal the exhibits, declarations and statements of facts submitted therewith; and

WHEREAS, after receipt of the Court's Procedural Order, counsel for plaintiffs and BMS conferred and reached agreement as to which exhibits, declarations, fact statements and other summary judgment materials relating to BMS should remain under seal; and

WHEREAS, the Court is satisfied that the parties have appropriately narrowed the materials to remain under seal to the items listed below;

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The following exhibits filed in connection with the parties' summary judgment motions shall remain under seal in their entirety: Plaintiffs' BMS Exs. 36, 40, 59 and 68 annexed to the *Declaration of Steve W. Berman in Support of Plaintiffs' Motion for Partial Summary Judgment Against All Track 1 Defendants*, dated March 15, 2006 (the "Berman Declaration") and Exhibit E of the *Merits Report And Declaration of Gregory K. Bell, Ph. D.*, dated March 15, 2006;

(2) The following exhibits shall be unsealed except that individual customer names shall be redacted from the publicly-filed version of the documents: Plaintiffs' BMS Exs. 42-48 and 53-55 annexed to the Berman Declaration; and

(3) Counsel for plaintiffs and BMS are directed to file with the clerk's office copies of the summary judgment materials that reflect the above rulings. All other summary judgment materials relating to BMS shall be unsealed.

Dated: Boston, Massachusetts
June __, 2006

Patti B. Saris
United States District Judge